

**ORDINANCE NO. 2290**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 35,000 SQUARE FEET, MORE OR LESS**

**WHEREAS, on the 15th day of December 2011, a conditional use application, denominated Conditional Use No. 1923 was filed on behalf of Donna Massey; and**

**WHEREAS, on the 9th day of February 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 22nd day of March 2012 said Planning and Zoning Commission recommended that Conditional Use No. 1923 be approved with conditions; and**

**WHEREAS, on the 20th day of March 2012, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1923 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Seaford Hundred, Sussex County, Delaware, and lying west of Road 552 (Shufelt Road) 1/2 mile north of Route 20 (Stein Highway) and being more particularly described in Deed Book 3933, Page 345, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 35,000 square feet, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**

**This Ordinance was adopted subject to the following conditions:**

- 1. Only two (2) units shall be permitted and they shall be located within the existing structure.**
- 2. One of the units shall be occupied by the Applicant, Donna Massey, and her family.**  
**In the event she no longer occupies a unit on the property as her residence, this Conditional Use shall automatically terminate.**
- 3. The property may be subject to Restrictive Covenants concerning the proposed use.**  
**The County is not a party to, nor governed by those restrictions. This recommendation should not be construed to override any applicable restrictions or the rights of property owners to enforce them.**
- 4. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2290 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 22ND DAY OF JANUARY 2013.**



**ROBIN A. GRIFFITH**  
**CLERK OF THE COUNCIL**

**The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Facts:**

- 1. This is an application to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a multi-family dwelling structure two (2) units to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 35,000 square feet, more or less, lying at the west of Road 552 (Shufelt Road) ½ mile north of Route 20 (Stein Highway).**
- 2. DelDOT commented that a Traffic Impact Study is not recommended, and that the current Level of Service “A” of Road 552 (Shufelt Road) will not change as a result of this application.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area #2; that an on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a Concept Plan is not required.**

4. The Applicant, Donna Massey, was present and stated that there is no new construction proposed; that they purchased the property in 2005 with the dwelling and a detached garage; that the dwelling was expanded in 2006; that the 26' by 30' addition is attached to the dwelling and contains a kitchen without a stove/oven; that basically they have one single family dwelling with two (2) kitchen areas; that approval of this request would allow her to add an additional stove/oven; that she has no intent to rent the unit; that the unit would be used by family members or guests when visiting; that the unit was originally built for her grandmother, who had no need for a cooking facility; and that she cannot attest that there are any other multi-family type properties in the immediate area.
5. The Applicant owns the existing structure, which she desires to use as two (2) separate dwelling units while she occupies one of them and that, with the conditions placed upon this use, it will be limited to the Applicant as long as she occupies one of the units.
6. The use will not have any significant impact on roadways or traffic.
7. Although there was opposition to the proposed use, that opposition appeared to be directed against the possibility that both units would become rental units occupied by unrelated parties and not the Applicant or her family.
8. Based on the record and recommendation of the Planning and Zoning Commission and the record created before Council, the Conditional Use was approved subject to 4 (four) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.